

1 Rene L. Valladares
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 *Martin L. Novillo
5 Assistant Federal Public Defender
6 Virginia State Bar No. 76997
7 411 E. Bonneville Ave., Ste. 250
8 Las Vegas, Nevada 89101
9 (702) 388-6577
10 Martin_Novillo@fd.org

*Attorney for Petitioner Clifford McClain

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 Clifford McClain,

13 Petitioner,

14 v.

15 Brian Williams, Warden, *et al.*,

16 Respondents.

Case No. 2:17-cv-00753-RFB-NJK

**Unopposed Motion for an
Extension of Time in which to file
Reply to Respondents' Answer
(First request)**

1 Petitioner Clifford McClain (“Mr. McClain”) moves for an extension of time of
2 sixty-one (61) days, up to and including Monday April 4, 2022, to file his reply to
3 Respondents’ answer to his petition for habeas relief. Respondents do not oppose this
4 request.

5 1. On July 9, 2019, this Court appointed the Federal Public Defender,
6 District of Nevada to Mr. McClain’s case. ECF No. 39.¹ Undersigned counsel filed Mr.
7 McClain’s Third Amended Petition for a Writ of Habeas Corpus on June 12, 2020.
8 ECF No. 48. Respondents filed their answer to Mr. McClain’s petition on January 3,
9 2022. ECF No. 77. Mr. McClain now seeks a sixty-one-day (61) extension of time to
10 file his reply.

11 2. An extension of time is merited on account of numerous filing deadlines
12 and commitments undersigned counsel recently had to meet. Specifically, since
13 January 3, 2022, counsel has had to invest a considerable amount of time drafting a
14 reply due in February of 2022 in the capital habeas case *Hernandez v. Gittere et al.*,
15 09-cv-00545-LRH (D. Nev.). In addition, counsel had to draft an opposition to a motion
16 to dismiss filed on January 18, 2022 in the non-capital habeas matter of *Bautista v.*
17 *Garrett et al.*, 20-cv-00403-LRH (D. Nev.). Counsel likewise had to draft and, on
18 January 10, 2022, file an opposition to a motion to dismiss in the non-capital habeas
19 matter of *Smith v. Garrett et al.*, 20-cv-01108-JAD (D. Nev.). Finally, counsel had to
20 draft a petition for rehearing due with the Ninth Circuit on February 9, 2022 in the
21 non-capital matter of *Sempier v. Baker, et al.*, 20-17249 (9th Cir.).

22 3. Going forward, undersigned counsel has numerous deadlines, which
23 further compel the present request for an extension of time. Specifically, counsel
24 needs to finalize his reply in the above-referenced *Hernandez* matter. In addition, on
25

26 ¹ The appointment followed this Court entering an Order granting in part the
27 Respondents’ motion to dismiss Mr. McClain’s second amended, proper person
petition for habeas relief. ECF No. 39.

1 March 4, 2022, counsel will need to file an opening brief with the Ninth Circuit in the
2 non-capital habeas matter of *Brown v. Williams, et al.*, 11-cv-01058-JCM (D. Nev.).
3 Further, on March 29, 2022, counsel will need to file a reply with this Court in the
4 non-capital habeas matter of *Zanini v. Baker, et al.*, 18-cv-00336-MMD (D. Nev.). The
5 above-duties and responsibilities are in addition to counsel's busy caseload handling
6 both non-capital and capital habeas matters currently pending in Nevada and out-of-
7 state district courts for which he is carrying on various investigations and research
8 and writing assignments.

9 4. Finally, the present request for an extension is unopposed. On February
10 2, 2022, counsel for Petitioner contacted Deputy Attorney Charles A. Finlayson via
11 email concerning this request for an extension of time. Mr. Finlayson has no objection
12 to the request.

13 5. This requested extension will permit counsel time to properly address
14 the Respondents' answer. The request is not made for the purposes of delay, but
15 rather in the interests of justice.

16 WHEREFORE, counsel respectfully requests that this Court grant the request
17 for an extension of time so that Mr. McClain can file his reply by Monday April 4,
18 2022.


1 Dated February 2, 2022

2 Respectfully submitted,

3
4 Rene L. Valladares
Federal Public Defender

5
6 /s/ Martin L. Novillo
Martin L. Novillo
7 Assistant Federal Public Defender

8
9 IT IS SO ORDERED:

10
11
12 
13 **RICHARD E. BOULWARE, II**
United States District Court

14 DATED this 3rd day of February, 2022.
15
16
17
18
19
20
21
22
23
24
25
26
27